

REMARKS

Pending Claims

Claims 1-21 and 25-33 are pending in the application. Claims 1, 9, 16, 25 and 31 are independent. Claims 22-24 were canceled by prior amendment.

Restriction/Election Requirement

The Restriction Requirement mailed on February 9, 2007, has been withdrawn. The claims are subject to an election of species requirement as follows:

Species I. Biasing of the condom with convolutions;

Species II. Biasing of the condom with biasing members/strips; and

Species III. Biasing of the condom with a pouch of highly resilient material.

Currently, independent claims 1, 9 and 16 are considered to be generic while independent claims 25 and 31 are considered to be directed to Species III.

Applicants' Response

In response, Applicants elect Species III for prosecution in this application, currently consisting of Claims 1-5, 8-9, 12-17, 19-21, and 25-33.

Traversal of the Restriction/Election Requirement

Further, in order to reserve their right to petition, Applicants respectfully traverse the Restriction/Election Requirement, and request reconsideration and

vacation of the restriction/election requirement. Applicants repeat their traversal for the reasons set forth in the Responses to Restriction Requirement filed August 11 and March 23, 2006. In particular, according to MPEP 803, if the search and examination of all the claims in the application can be made without serious burden, the examiner must examine them on the merits even though they include claims to independent or distinct inventions. A serious burden on the examiner must be shown in the Restriction Requirement by appropriate explanation of separate classification, or separate status in the art, or a different field of search as defined in MPEP § 808.02. No such showing has been made in the Restriction/Election Requirement of August 22, 2007, with respect to Species I, II and II. Accordingly, Applicants respectfully reserve their right to petition the Director to review the appropriateness of the Restriction/Election Requirement, and further reserve their right to rejoinder of claims following allowance of any generic or linking claim. Currently claims 1, 9 and 16 are believed to be generic.

Appl. No. 10/664,861
Response dated September 24, 2007
Reply to Office Action of August 22, 2007

Docket No. AVR-100

Conclusion

Should the Examiner feel that additionally discussion of the invention or the prior art would be useful, the Examiner is encouraged to contact Applicants' undersigned representative via telephone. In view of the foregoing, Applicants respectfully request that a timely Notice of Allowance be issued in this case.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Colin D. Barnitz', with a stylized flourish at the end.

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